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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,444

01/27/2004

Gerald R. Harris

1526

24919

7590

08/11/2005

EXAMINER

FLORES SANCHEZ, OMAR

MCAFEE & TAFT

TENTH FLOOR, TWO LEADERSHIP SQUARE

211 NORTH ROBINSON

OKLAHOMA CITY, OK 73102

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/765,444

Applicant(s)

HARRIS ET AL.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 7-11, 18-20, 23-26, 30-33, 40-43 and 45-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-17, 21, 22, 27-31, 34-39 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 7-11, 18-20, 23, 24, 26, 30-33, 40-43, 45, 46 and 48-53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/16/05. Also, claims 25 and 47 are withdrawn from further consideration because reads on a nonelected species V.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show encoder 68' (see page 10, line 20) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

3. Claims 1-8, 12-17, 21, 22, 27, 28-31, 34-39 and 44 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-8, 14-19, 23, 24, 29-33 and 47. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

4. Claims 1-8, 12-17, 21, 22, 27, 28-31, 34-39 and 44 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-8, 14-19, 23, 24, 29-33 and 47 of U. S. Patent No. 6,698,159 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Applicant's claims reading on patent's claims	Claims of patent' 159
1-8	1-8
12	14
13	15

14 and 36	16
15 and 37	17
16 and 38	18
17 and 39	19
21	23
22	24
27	29
28-31	30-33
34	37
35	38
44	47

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 21, 22, 27 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (4,179,961).

Regarding claims 1 and 27, Harris discloses the invention including a feed conveyor 81, a machine tool 21, a shuttle vise (93 and 94) and an adjustable stop (132 and 133). Regarding

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claim 21, Harris shows a band saw 29. Regarding claims 22 and 44, Harris shows an actuator 98.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris in view of Baldwin et al. (3,941,019).

Harris discloses the invention substantially as claimed including an actuator 98. Harris does not show an encoder and a controller. However, Baldwin et al. teaches the use of an encoder 52 and a controller 28 for the purpose of accurately detecting the position of the carriage. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Harris's device by providing the encoder and the controller as taught by Baldwin et al. in order to obtain a device that accurately detects the position of the carriage.

Allowable Subject Matter

9. Claims 4-8, 12-17, 29-31, 34-39 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stolzer, Beaman et al., Moriya et al. and Aoki et al. are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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8/8/05


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